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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4480

12 **SAMANTHA C. TOOMER-FOSTER**
13 **7251 Brentwood Blvd. #115**
Brentwood, CA 94513

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **90586**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

22 2. On or about April 27, 2009, the Board issued Pharmacy Technician Registration
23 Number TCH 90586 to Samantha C. Toomer-Foster (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on August 31, 2014, unless renewed.

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“(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

“ . . . ”

COSTS

9. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

10. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (l) of the Code in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances of Respondent's conviction

1 are as follows:

2 a. On or about August 19, 2011, officers of the Sacramento Sheriff's Department
3 approached a vehicle in which Respondent was a passenger that was parked near a motel.
4 Respondent was a registered guest at the motel. The officers determined that the driver of the
5 vehicle was on probation and they performed a probation search of the vehicle. Pursuant to their
6 vehicle search, the officers discovered the following items: fifteen (15) Hydrocodone pills in a
7 plastic bindle; six (6) Clonazepam pills in a plastic bindle; and one (1) unlabeled prescription
8 bottle containing the following items: twenty-six (26) Lorazepam pills; one (1) Hydrocodone pill;
9 three (3) Clonazepam pills; and four (4) Diazepam pills.

10 b. After performing the vehicle search, the officers performed a search of Respondent's
11 motel room, during which they discovered a woman's purse containing the following items: one
12 (1) zip top bag containing the following items: eleven (11) Clonazepam pills; seven (7) Diazepam
13 pills; two (2) Lorazepam pills; and one (1) Phentermine Hydrochloride pill.

14 c. After discovering these items, the officers arrested Respondent.

15 d. Respondent did not have a valid prescription for any of the above-listed medication.

16 e. On or about October 20, 2011, in Sacramento County Superior Court (Case No.
17 11F05884), Respondent was convicted by her plea of nolo contendere of violating Health and
18 Safety Code section 11350 (possession of a controlled substance), a felony.

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20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Pharmacy issue a decision:

23 1. Revoking or suspending Pharmacy Technician Registration Number TCH 90586
24 issued to Samantha C. Toomer-Foster;

25 2. Ordering Samantha C. Toomer-Foster to pay the Board of Pharmacy the reasonable
26 costs of the investigation and enforcement of this case pursuant to Business and Professions Code
27 section 125.3;

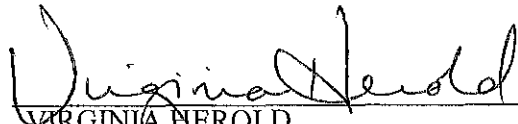
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3. Taking such other and further action as deemed necessary and proper.

DATED:

3/1/13



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2012403280